

### REMARKS

By this paper, Claim 1 has been amended. Support for the amendment to Claim 1 can be found at least in Figures 3 and 4, as well as elsewhere throughout the specification. No new matter has been added by this amendment. Thus, Claims 1-10 remain pending and presented for identification.

#### Discussion of Rejection of Claims 1-10 Under 35 U.S.C. 103(a)

The Examiner has rejected Claims 1-9 under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 5,950,856 to Cinque, in view of U.S. Patent No. 3,381,825 to Bessett, and has rejected Claim 10 as unpatentable over Cinque in view of Bessett and further in view of U.S. Patent No. 3,027,826 to Morris.

In rejecting Claims 1-9, the Examiner stated:

Cinque discloses a refreshment center comprising a rigid mold (one-piece molded article) with a first recessed portion sized to receive a plate and a circular hole 30 with a slot 31 for a stemmed glass. Cinque discloses the invention except for the L-shaped prong. Bessett teaches a similarly configured refreshment center with a L-shaped prongs which support cups. It would have been obvious to modify the cup holder to have at least three L-shaped prongs in order to support the beverage container to reduce any stress on the sides of the circular opening of the holder.

For the reasons set forth below, Applicant respectfully submits that the combination of Cinque and Bessett does not render amended Claim 1 unpatentable.

By this paper, Claim 1 has been amended to recite a refreshment center comprising an L-shaped prong which permits passage of a stem of a stemmed glass past the L-shaped prong, where the second end of the refreshment center is configured to retain certain stemmed glasses such that a base of such a stemmed glass is positioned below the L-shaped prong.

Bessett teaches the incorporation into openings 16 of inwardly extending hinged fingers 21, which move downward as a cup is inserted, and contain an upwardly extending projection 23. As can be seen in Figures 2 and 3 of Bessett, the hinged fingers 21 are pushed downward and outward to accommodate cups of various sizes, and the projections 23 retain the base of any cup inserted into the openings 16. Specifically, Bessett recites that "the projections 23 of fingers 21 contact and subtend the underside of the cup from accidentally passing through the opening, in the event the cup is undersized." *Bessett*, col. 2, ll. 26-29.

Therefore, Applicant respectfully notes that the inwardly extending hinged fingers 21 of Bessett are configured to retain the base of any cup or glass inserted into the opening 16. As described in Bessett, the base of a cup is prevented from passing beyond the upwardly extending projections 23 at the base of fingers 21, a feature which is made possible due to the hinged nature of fingers 21. Because openings 16 have a continuous perimeter extending about the opening, a cup can only be inserted in a downward direction into the opening, and thus, a stemmed glass inserted into such an opening must be supported at the base of the stemmed glass by the upwardly extending projections. For stemmed glasses having a stem of sufficient length, this position would be highly unstable.

In contrast, amended Claim 1 recites that the L-shaped prongs may support the base of certain tapered or non-tapered beverage containers, but also that certain stemmed glasses may be supported by the second end such that the base of the stemmed glass is positioned beneath the L-shaped prongs. As such a configuration is not taught by Bessett, Applicant respectfully submits that Claim 1, as amended, is patentable over the combination of Bessett and Cinque. As Claims 2-10 depend from Claim 1, Applicant also submits that they are patentable over the combination of Bessett and Cinque for the reasons discussed above with respect to Claim 1, in addition to providing further patentable distinction.

#### No Disclaimers or Disavowals

Although the present communication includes alterations to the claims, as well as characterizations of claim scope and referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application

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Conclusion

For the reasons discussed above, Applicant respectfully submits that pending Claims 1-10 are patentable over the prior art, and respectfully requests the allowance of the same.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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